

Virginia Administrative Code
Database updated through August 1, 2012

Part XIV
General Virginia Stormwater Management Program (VSMP) Permit for Discharges of
Stormwater from Construction Activities

4VAC50-60-1100. Definitions.

The words and terms used in this part shall have the meanings defined in the Act and this chapter unless the context clearly indicates otherwise, except as otherwise specified in this section. Terms not defined in the Act, this chapter, or this section shall have the meaning attributed to them in the CWA. For the purposes of this part:

"Commencement of construction" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of fill material).

"Final stabilization" means that one of the following situations has occurred:

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.
2. For individual lots in residential construction, final stabilization can occur by either:
 - a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
 - b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.
3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

"Immediately" means as soon as practicable, but no later than the end of the next work day, following the day when the earth-disturbing activities have temporarily or

Deleted: "Discharge to an Impaired Water" means that a construction activity is considered to discharge to an impaired water if the segment of the first surface water to which the activity discharges is identified in the 2012 305(b)/303(d) Water Quality Assessment Integrated Report as not meeting an applicable water quality standard for (1) sediment or a sediment related parameter (e.g., total suspended solids (TSS) or turbidity) or (2) nutrients (e.g., nitrogen and/or phosphorus); or construction activities are identified as a significant source of pollutants in another TMDL, such as for benthic impairments, approved prior to July 1, 2014. For discharges that enter a storm sewer system prior to discharge, the first surface water is the waterbody that receives the stormwater discharge from the storm sewer system.

Deleted: means the deadline for initiating stabilization measures. In the context of this permit, "immediately"

permanently ceased. In the context of this permit, “immediately” is used to define the deadline for initiating stabilization measures.

“Impaired waters” means surface waters identified as impaired on the 2012 305(b)/303(d) Water Quality Assessment Integrated Report or surface waters included in a TMDL approved prior to July 1, 2014.

“Initiation of stabilization activities” means

1. Prepping the soil for vegetative or non-vegetative stabilization;
 2. Applying mulch or other non-vegetative product to the exposed area;
 3. Seeding or planting the exposed area;
 4. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; and
 5. Finalizing arrangements to have stabilization product fully installed in compliance with the applicable deadline for completing stabilization in
- This list of examples is not exhaustive.

~~“Minimize” means to prevent, reduce, or eliminate using practicable control measures to meet the conditions of this permit.~~

“Minimize” means to reduce or eliminate to the extent achievable using stormwater controls that are technologically available and economically practicable. ~~and achievable in light of best industry practices.~~

“Run-off producing event” means a rainfall event producing 0.25-inches of rain or greater.

“Qualified personnel” means a person knowledgeable in the principles and practice practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity.

4VAC50-60-1110. Purpose.

This general permit regulation authorizes stormwater discharges from regulated construction activities. For the purposes of this part, these discharges are defined as stormwater discharges associated with large construction activity, and stormwater discharges associated with small construction activity. Stormwater discharges associated with other types of industrial activity shall not have coverage under this general permit. ~~Stormwater discharges associated with other types of industrial activity shall not have coverage under this general permit.~~ Stormwater discharges that originate from construction activities that have been completed and permit coverage is terminated are not authorized by this permit. ~~The goal of this permit is to minimize the discharge of~~

stormwater pollutants from construction activity by requiring that the operator plan and implement appropriate control measures.

4VAC50-60-1120. Effective date of the permit.

This general permit is effective on ~~July 1, 2009~~ July 1, 2014. The general permit will expire on ~~June 30, 2014~~ June 30, 2019, This general permit is effective for any covered operator upon compliance with all provisions of 4VAC50-60-1130.

Deleted: in a manner consistent with 4VAC50-60-330

4VAC50-60-1130. Authorization to discharge.

A. Any operator ~~governed~~ covered by this general permit is authorized to discharge stormwater associated with construction activity to state surface waters of the Commonwealth of Virginia provided that the operator submits a complete and accurate registration statement in accordance with 4VAC50-60-1150 and receives acceptance by the board or its designated authority, submits any fees required by 4VAC50-60-700 et seq. (Part XIII) unless exempted pursuant to 4VAC60-60-1150 A.3(a), complies with the requirements of 4VAC50-60-1170, ~~complied with the requirements of 4VAC50-60-1150, complies with the requirements of 4VAC50-60-1180 through 4VAC50-60-1190, and~~ provided that:

Deleted: in accordance with 4VAC50-60-1150 A 4

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1. Prior to commencing ~~construction~~ land-disturbing activities, the operator obtains approval of:

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~~a. an~~ An erosion and sediment control plan from the ~~locality~~ appropriate Virginia Erosion and Sediment Control Program authority (VЕСP) as authorized under ~~in which the construction activity is to occur or from another appropriate plan approving authority authorized under~~ the Virginia Erosion and Sediment Control Regulations, 4VAC50-30, unless the operator receives from the ~~locality~~ VЕСP an "agreement in lieu of a plan" as defined in 4VAC50-30-10; ~~or is exempt from the requirement to submit an erosion and sediment control plan by the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and Erosion and Sediment Control Regulations (4VAC50-30); and.~~

b. A stormwater management plan from the appropriate Virginia Stormwater Management Program authority (VSMP authority) as authorized under the Virginia Stormwater Management Program Regulations, 4VAC50-60.

2. Discharges authorized by this permit may be commingled with other sources of stormwater that are not required to be covered under a VSMP permit, so long as the combined discharge is in compliance with this permit. Discharges authorized by a separate VSMP or VPDES permit may be commingled with discharges authorized by this permit so long as all such discharges comply with all applicable permit requirements;

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3. Discharges to waters for which a "total maximum daily load" (TMDL) wasteload allocation has been established are not eligible for coverage under this general permit unless they are otherwise authorized in accordance with 4VAC50-60-1170 Section II D 6

173 and consistent with the requirements and assumptions of the wasteload allocations in the
174 TMDL; and
175
176 4. Discharges to waters that have been identified as impaired in the 2008 § 305(b)/303(d)
177 Water Quality Assessment Integrated Report are not eligible for coverage under this
178 general permit unless they are otherwise authorized in accordance with 4VAC50-60-1170
179 Section I H.

180
181 5. Authorized non-stormwater discharges. The following non-stormwater discharges are
182 authorized by this permit:
183 a. Discharges from fire fighting activities;
184 b. Fire hydrant flushings;
185 c. Waters used to wash vehicles where detergents have not been used and the wash water
186 has been treated;
187 d. Water used to control dust that has been filtered, settled or otherwise treated prior to
188 discharge;
189 e. Potable water sources, including uncontaminated waterline flushings;
190 f. Routine external building wash down which does not use detergents, solvents or other
191 wash chemicals and that have been filtered, settled or otherwise treated prior to
192 discharge;
193 g. Pavement washwater where spills or leaks of toxic or hazardous materials have not
194 occurred (unless all spilled material has been removed) and where detergents, solvents, or
195 other wash chemicals are not used and that have been filtered, settled or otherwise treated
196 prior to discharge;
197 h. Uncontaminated air conditioning or compressor condensate;
198 i. Uncontaminated ground water or spring water;
199 j. Foundation or footing drains where flows are not contaminated with process materials
200 such as solvents;
201 k. Uncontaminated excavation dewatering, including dewatering of trenches and
202 excavations that have been filtered, settled or otherwise treated prior to discharge; and,
203 l. landscape irrigation.

204
205 B. The board or its designated authority will notify an operator that the discharge is not
206 eligible for coverage under this general permit in the event of any of the following:
207

208 1. The operator is required to obtain an individual permit in accordance with 4VAC50-
209 60-410 B of the VSMP Regulation;

210
211 2. The operator is proposing to discharge to state surface waters specifically named in
212 State Water Control Board or Virginia Soil and Water Conservation Board regulations
213 which prohibit such discharges;

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215
216 of an approved TMDL.
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Deleted: In addition to other prohibitions, the following discharges are not eligible for coverage under this general permit

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Deleted: 3. Stormwater discharges that the permit-issuing authority in consultation with the State Water Control Board determines cause, may reasonably be expected to cause, or contribute to a violation of water quality standards (9VAC25-260).

234 | C. This permit may also authorize stormwater discharges from support activities (e.g.,
235 | concrete or asphalt batch plants, equipment staging yards, material storage areas,
236 | excavated material disposal areas, borrow areas) located on-site or off-site provided that:

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238 | 1. The support activity is directly related to the construction activity applying for VSMP
239 | permit coverage;

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241 | 2. The support activity is not a commercial operation or does not serve multiple unrelated
242 | construction projects by different operators, and does not operate beyond the completion
243 | of the construction activity at the last construction project it supports;

Deleted: for discharges of stormwater associated
with construction activity

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245 | 3. The support activity is identified at the time of initial permit coverage;

247 | 4. Appropriate control measures that will be implemented to minimize pollutant
248 | discharges from the support activity are identified in a stormwater pollution prevention
249 | plan covering the discharges from the support activity areas.

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251 | 5. All additional, state, federal and local approvals are obtained for the support activity.

253 | D. Support activities located off-site are not required to be covered under this general
254 | permit. Discharges of stormwater from off-site support activities may be authorized under
255 | another VSMP or a VPDES permit. Where stormwater discharges from off-site support
256 | activities are not authorized under this general permit, the land area of the off-site support
257 | activity need not be included in determining the total land disturbance acreage of the
258 | construction activity seeking general permit coverage.

260 | E. Approval for coverage under this general permit does not relieve any operator of the
261 | responsibility to comply with any other applicable federal, state or local statute,
262 | ordinance or regulation.

Deleted: Receipt of

264 | 4VAC50-60-1140. Delegation to qualifying state and local programs.

Deleted: F. The permit-issuing authority may
allow exceptions to technical criteria contained in the
permit in accordance with Part III of this chapter.

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268 | ~~Qualifying state or local erosion and sediment control program requirements may be~~
269 | ~~incorporated by reference into the Stormwater Pollution Prevention Plan (SWPPP)~~
270 | ~~required by 4VAC50-60-1170 of this permit. Where a qualifying state or local program~~
271 | ~~does not include one or more of the elements in this section, then the operator must~~
272 | ~~include those elements as part of the SWPPP required by 4VAC50-60-1170 of this~~
273 | ~~permit. A qualifying state or local erosion and sediment control program is one that is~~
274 | ~~approved by the board, meets the requirements of 4VAC50-60-460 L and includes:~~

276 | ~~1. Requirements for construction site operators to implement appropriate erosion and~~
277 | ~~sediment control measures;~~

2. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; and

3. Requirements for construction site operators to develop and implement a SWPPP in accordance with 4VAC50-60-1170 Section II.

~~The Department authorizes VSMP authorities to act as its Agent in implementing this permit upon approval by the Board. The Agent may be authorized to conduct the following activities, including but not limited to: registration statement acceptance, fee collection, plans review and approval, and permit compliance and enforcement dependent upon conditions established as part of the Board approval.~~

A Board-approved VSMP authority is authorized to administer requirements of this general permit, including but not limited to: registration statement acceptance, fee collection, plans review and approval, and permit compliance and enforcement dependent upon conditions established as part of the Board approval. Nothing in the foregoing statement shall limit the authority of the Board or the department to ensure permit compliance and to enforce permit terms.

4VAC50-60-1150. Permit application (registration statement).

A. Deadlines for submitting registration statement.

1. Except as provided in subdivision 3 of this subsection, operators must submit a complete and accurate registration statement in accordance with the requirements of this section prior to the issuance of coverage under the general permit that authorizes the commencement of land-disturbing activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).

2. For stormwater discharges from construction activities where the operator changes, the new operator must submit a complete registration statement or transfer form prior to assuming operational control over site specifications or commencing work on-site.

3. In order to continue permit coverage, operators of ongoing construction activity projects as of July 1, 2009, that received authorization to discharge for those projects under the construction stormwater general permit issued in 2004 must:

a. Submit a complete and accurate registration statement by June 1, 2009. Provided that a complete and accurate registration statement is submitted by the June 1 reapplication date, the permit application (registration statement) fee will be waived for land-disturbing activities for which the department initially issued permit coverage on or after July 1, 2008; and

b. Update their stormwater pollution prevention plan to comply with the requirements of this general permit within 30 days after the date of coverage under this general permit.

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Deleted: approved by the Board to operate a VSMP.

4. Effective date of permit coverage. The operator of a construction activity is authorized to discharge stormwater under the terms and conditions of this permit ~~15 business days following submission of a complete and accurate registration statement to the permit issuing authority unless notification of coverage is made by the permit issuing authority at an earlier time upon receipt of a notice of coverage from the VSMP authority. For the purposes of this permit, a registration statement that is mailed is considered to be submitted once it is postmarked.~~ Operators are not authorized to discharge if the registration statement is incomplete or incorrect, or if the discharge(s) was not eligible for coverage under this permit. NOTE: A stormwater pollution prevention plan (SWPPP) must be prepared in accordance with the requirements of the VSMP General Permit for Stormwater Discharges from Construction Activities prior to submitting the registration statement. By signing the registration statement, the operator certifies that the SWPPP has been prepared.

5. Late notifications. Operators are not prohibited from submitting registration statements after initiating clearing, grading, excavation activities, or other land-disturbing activities. When a late registration statement is submitted, authorization for discharges shall not occur until coverage under the general permit is issued. The ~~permit issuing authority~~ VSMP authority and the department reserve reserves the right to take enforcement action for any unpermitted discharges that occur between the commencement of construction and discharge authorization.

B. Registration statement. The operator shall submit a registration statement on the official department form that shall contain the following information:

1. Name, mailing address and telephone number of the construction activity operator. No more than one operator may receive coverage under each registration statement. (NOTE: The permit will be issued to this operator, and the certification in subdivision 12 of this subsection must be signed by the appropriate person associated with this operator);

2. Name and location of the construction activity, including town, city, or county, and all off-site support activities to be covered under the permit. If a street address is unavailable, provide latitude and longitude in degrees, minutes, seconds (DMS) to the nearest 15 seconds of the approximate center of the site;

3. Status of the activity: federal, state, public, or private;

4. Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);

5. Name of the receiving water(s) and HUC. Direct discharges to any receiving water identified as impaired on the ~~2008, 2012~~ § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL WLA has been established for stormwater discharges from a construction activity shall be noted;

387 6. If the discharge is through a municipal separate storm sewer system (MS4), the name
388 of the municipal operator of the storm sewer;

389
390 7. Estimated project start date and completion date;

391
392 8. Total land area of development and estimated area to be disturbed by the construction
393 activity (to the nearest one-tenth of an acre);

394
395 9. Whether the area to be disturbed by the construction activity is part of a larger
396 common plan of development or sale;

397
398 ~~10. An indication of whether nutrient offsets are intended to be acquired in accordance~~
399 ~~with § 10.1-603.8:1 of the Code of Virginia;~~

400
401 11. A stormwater pollution prevention plan (SWPPP) must be prepared in accordance
402 with the requirements of the VSMP General Permit for Stormwater Discharges from
403 Construction Activities prior to submitting the registration statement. By signing the
404 registration statement the operator certifies that the SWPPP has been prepared; and

405
406 12. The following certification: "I certify under penalty of law that I have read and
407 understand this registration statement and that this document and all attachments were
408 prepared in accordance with a system designed to assure that qualified personnel properly
409 gathered and evaluated the information submitted. Based on my inquiry of the person or
410 persons who manage the system or those persons directly responsible for gathering the
411 information, the information submitted is to the best of my knowledge and belief true,
412 accurate, and complete. I am aware that there are significant penalties for submitting false
413 information including the possibility of fine and imprisonment for knowing violations."

414
415 C. The registration statement shall be signed in accordance with 4VAC50-60-1170,
416 Section III K.

417
418 D. Where to submit. The registration statement shall be submitted to the ~~permit issuing~~
419 ~~authority~~ VSMP authority.

420
421 E. Registration statements in the custody of the permit-issuing authority are subject to
422 requests made pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of
423 the Code of Virginia).

424
425 4VAC50-60-1160. Termination of permit coverage.

426
427 A. Requirements. The operator shall submit a notice of termination on the official
428 department form after one or more of the following conditions have been met:

429
430 1. Necessary post-construction control measures ~~included in the SWPPP for the site~~ are in
431 place and functioning effectively and final stabilization has been achieved on all portions
432 of the site for which the operator is responsible;

2. Another operator has assumed control over all areas of the site that have not been finally stabilized and obtained coverage for the ongoing discharge;

3. Coverage under an alternative VPDES or VSMP permit has been obtained; or

4. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The notice of termination must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted unless specifically denied by the VSMP authority or department as a result of an inspection that has determined that the conditions provided for permit termination have not been met.

B. Notice of termination. The notice of termination shall contain the following information:

1. Name, mailing address and telephone number of the construction activity operator.

2. Name and location of the construction activity. If a street address is unavailable, latitude and longitude shall be provided in degrees, minutes, seconds (DMS) to the nearest 15 seconds of the approximate center of the site.

3. The VSMP stormwater general permit number.

4. The basis for submission of the notice of termination, pursuant to subsection A.

5. Where applicable, a list of the permanent control measures (both structural and nonstructural) that were installed at the construction activity site. For each control measure that was installed, the following information shall be included:

a. Type of permanent control measure installed and the date that it became functional as a permanent control measure;

b. Geographic location (county or city and Hydrologic Unit Code). Latitude and longitude may additionally be included if available;

c. Waterbody the control measure discharges into; and

d. Number of acres treated (to the nearest one-tenth of an acre).

6. Where applicable, the following information related to participation in a regional stormwater management plan:

a. Type of regional facility or facilities to which the site contributes;

b. Geographic location of any regional facility to which the site contributes (county or city and Hydrologic Unit Code);

c. Geographic location of the site (county or city and Hydrologic Unit Code). Latitude and longitude may additionally be included if available; and

d. Number of acres treated by a regional facility.

7. Where applicable, the following information related to nutrient offsets that were acquired in accordance with § 10.1-603.8:1 of the Code of Virginia:

a. Name of the broker from which offsets were acquired;

b. Geographic location (county or city and Hydrologic Unit Code) of the broker's offset generating facility;

c. Number of nutrient offsets acquired (lbs. per acre per year); and

d. Nutrient reductions achieved on site (lbs. per acre per year).

8. The following certification: "I certify under penalty of law that I have read and understand this notice of termination and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

C. The notice of termination shall be signed in accordance with 4VAC50-60-1170 Section III K.

D. Where to submit. The notice of termination shall be submitted to the VSMP authority ~~permit issuing authority~~.

E. Termination by the ~~permit issuing authority~~ VSMP authority. The ~~permit issuing authority~~ VSMP authority may terminate coverage under this permit during its term and require application for an individual permit or deny a permit renewal application on its own initiative in accordance with the Act and this chapter.

4VAC50-60-1170. General permit.

Any operator whose registration statement is accepted by the ~~permit issuing authority~~ Board or its designated authority will receive the following permit and shall comply with the requirements therein and be subject to all requirements of the Virginia Stormwater Management Act (Chapter 6, Article 1.1 (§ 10.1-603.1 et seq.) of Title 10.1 of the Code

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527 of Virginia) and the Virginia Stormwater Management Program (VSMP) Permit
528 Regulations (4VAC50-60). No more than one operator may receive coverage under each
529 registration statement.

530
531 General Permit No.: VAR10

532
533 Effective Date: ~~July 1, 2009~~ July 1, 2014

534
535 Expiration Date: ~~June 30, 2014~~ June 30, 2019

536
537 GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM
538 CONSTRUCTION ACTIVITIES

539
540 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER
541 MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER
542 MANAGEMENT ACT

543
544 In compliance with the provisions of the Clean Water Act, as amended, and pursuant to
545 the Virginia Stormwater Management Act and attendant regulations, operators of
546 construction activities covered by this permit with stormwater discharges are authorized
547 to discharge to state surface waters, ~~including discharges to a regulated MS4 system,~~
548 within the boundaries of the Commonwealth of Virginia, except those specifically named
549 in State Water Control Board ~~and~~ or Virginia Soil and Water Conservation Board
550 regulations which prohibit such discharges.

551
552 The authorized discharge shall be in accordance with this cover page, Section I—
553 Discharge Authorization and Special Conditions, Section II—Stormwater Pollution
554 Prevention Plan, and Section III—Conditions Applicable To All VSMP Permits, as set
555 forth herein.

556
557 SECTION I
558 DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

559
560 A. Coverage under this permit.

561 1. During the period beginning with the date of coverage under this general permit and
562 lasting until the permit's expiration date, the operator is authorized to discharge
563 stormwater from the following construction activities:

564
565 a. New Construction Activities

566 Construction activities for which initial permit coverage is sought under this permit
567 provided permit compliance is maintained or construction activities previously covered
568 under the 2009 Virginia General Permit for Stormwater Discharges from Construction
569 Activities and for which no registration statement was submitted in accordance with
570 Section III.M of the 2009 permit in order to maintain uninterrupted coverage.

571
572 b. Previously Covered Construction Activities

Deleted: In accordance with 4 VAC50-60-410, the board may determine, on a case-by-case basis, that certain stormwater discharges, and certain other facilities covered by general permits that do not generally require an individual permit may be required to obtain an individual permit because of their contributions to water pollution and any operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit.

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594 Construction activities that have obtained VSMP permit coverage under the 2009
595 Virginia General Permit for Stormwater Discharges from Construction Activities and
596 submitted a registration statement in accordance with Section III.M of the 2009 permit in
597 order to maintain uninterrupted permit coverage.

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598
599 c. Emergency-Related Construction Activities.

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600 Construction activities in response to a public emergency (e.g., natural disaster,
601 widespread disruption in essential public services), and the related work requires
602 immediate authorization to avoid imminent endangerment to human health, public safety.
603 The operator shall have coverage under this permit in order to address these public
604 emergencies provided that:

605
606 a. The operator advises the VSMP authority of the construction activity within seven days
607 of commencing land disturbance;

Deleted: and,

608
609 b. VSMP permit coverage is applied for within 30 days of commencing the land-
610 disturbing activity; and,

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611
612 c. Documentation is provided in the SWPPP to substantiate the occurrence of the public
613 emergency.

614
615 ▼ Deleted: B. Discharge authorization

616
617 ▼ Deleted: 1. During the period beginning with the
618 date of coverage under this general permit and
619 lasting until the permit's expiration date, the operator
620 is authorized to discharge stormwater from
621 construction activities in compliance with this
622 permit.

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619 2. This permit also authorizes stormwater discharges from support activities (e.g.,
620 concrete or asphalt batch plants, equipment staging yards, material storage areas,
621 excavated material disposal areas, borrow areas) located on-site or off-site provided that:

622
623 a. The support activity is directly related to the construction site that is requiring to have
624 activity applying for VSMP permit coverage for discharge of stormwater associated with
625 construction activity;

626
627 b. The support activity is not a commercial operation or serving does not serve multiple
628 unrelated construction projects by different operators, and does not operate beyond the
629 completion of the construction activity at the last construction project it supports; ~~and~~

630
631 c. The support activity is identified in the registration statement at the time of coverage;

632
633 d. Appropriate control measures are identified in a stormwater pollution prevention plan
634 and implemented to address the discharges from the support activity areas; and,

635
636 e. All additional state, federal and local approvals are obtained for the support activity.

637
638 3. There shall be no discharge of floating solids or visible foam in other than trace
639 amounts.

B. Limitations on coverage.

1. Post-construction discharges.

This permit does not authorize stormwater discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, has undergone final stabilization. ~~Post-construction industrial stormwater discharges may need to be covered by a separate VPDES permit.~~ and permit coverage has been terminated. Post-construction industrial stormwater discharges may need to be covered by a separate VPDES permit.

~~2. Discharges mixed with nonstormwater. This permit does not authorize discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in Section I-D-2 (Exceptions to prohibition of nonstormwater discharges) and are in compliance with Section II-D-5 (Nonstormwater discharge management).~~

2. Discharges covered by another permit.

This permit does not authorize stormwater discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit.

~~4. TMDL limitation. Discharges to waters for which a wasteload allocation (WLA) for a pollutant has been established in a "total maximum daily load" (TMDL) approved by the State Water Control Board that would apply to stormwater discharges from a construction activity are not eligible for coverage under this permit unless the stormwater pollution prevention plan (SWPPP) developed by the operator is consistent with the requirements related to TMDLs contained in Section II-D-6.~~

~~5. Impaired waters limitation. Discharges to waters that have been identified as impaired in the 2008 § 305(b)/303(d) Water Quality Assessment Integrated Report are not eligible for coverage under this permit unless the operator implements strategies and control measures consistent with Sections I-H and II-D-7.~~

3. Limitations on coverage for discharges to impaired surface waters including surface waters included in an approved TMDL.

Discharges to impaired waters are not eligible for coverage under this permit unless the following requirements are implemented:

1. The impaired surface water, impairment and TMDL name and pollutant when applicable shall be identified in the registration statement and in the SWPPP.

2. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site.

3. Nutrients shall be applied in accordance with manufacturer's recommendations and shall not be applied during runoff producing events.

4. The following modifications to the inspection schedule shall be implemented:

Deleted: Discharges authorized by a separate VSMP or VPDES permit may be commingled with discharges authorized by this permit.

- a. Inspections shall be conducted every seven days and within 48-hours of a runoff producing event. In the event that a runoff producing event occurs when there are more than 48-hours between normal working hours, the inspection shall be conducted the next work day.
- b. Representative inspections utilized by utility line installation, pipeline construction, or other similar linear construction activities shall also inspect all outfalls discharging directly to an impaired surface water.
- c. The modified inspection schedule shall be implemented for:
- (1) All construction activities that discharge to an impaired water where the segment of the first surface water to which the activity discharges is identified in the 2012 305(b)/303(d) Water Quality Assessment Integrated Report as not meeting an applicable water quality standard for (1) sediment or a sediment related parameter (e.g., total suspended solids (TSS) or turbidity) or (2) nutrients (e.g., nitrogen and/or phosphorus);
- (2) All construction activities that discharge to an impaired water where the segment of the first surface water to which the activity discharges is identified in the 2012 305(b)/303(d) Water Quality Assessment Integrated Report as not meeting an applicable water quality standard and construction activities have been identified as a significant source of pollutants in a TMDL approved prior to July 1, 2014;
- (3) All construction activities that disturb more than five acres or construction activities and discharge into surface waters included in an approved TMDL other than the Chesapeake Bay TMDL and where construction activities have been identified as a significant source of pollutants in a TMDL;
- (4) All construction activities that discharge into surface waters included in the Chesapeake Bay TMDL below the fall line and disturb more than 20 acres; and,
- (5) All construction activities that discharge into surface waters included in the Chesapeake Bay TMDL above the fall line and disturb more than 50 acres.
- C. Commingled discharges. Discharges authorized by this permit may be commingled. Discharges authorized by a separate VSMP or VPDES permit may be commingled with discharges authorized by this permit.
- D. Prohibition of non-stormwater discharges.
- Except as provided in Sections I.A.2, I.C and I.E., all discharges covered by this permit shall be composed entirely of stormwater associated with the construction activity. All other discharges including the following are prohibited:

Deleted: Sections I.A.2, I.C and I.D.2 Section I.E

747 1. Wastewater from washout of concrete, unless managed by an appropriate control as
748 | described at Section II, A.2.d(5)(e);

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749
750 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing
751 | compounds and other construction materials;

752
753 3. Fuels, oils or other pollutants used in vehicle and equipment operation and
754 | maintenance;

755
756 | 4. Oils, toxic substances or hazardous substances from spills or other releases; and,

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757
758 | 5. Soaps and solvents used in equipment and vehicle washing.

Deleted: ; and,

759
760 |
761 |
762 | E. Authorized non-stormwater discharges.

Deleted: 6. Floating solids or visible foam that contravene established standards or interferes directly or indirectly with designated uses of surface waters.

763
764 | The following non-stormwater discharges from active construction sites activities are
765 | authorized by this permit when discharged in compliance with this permit: ~~provided the~~
766 | ~~nonstormwater component of the discharge is in compliance with Section II D 5~~
767 | ~~(Nonstormwater discharges)~~;

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768
769 | a. Discharges from fire fighting activities;

770
771 | b. Fire hydrant flushings;

772
773 | c. Waters used to wash vehicles where detergents have not been used and the wash water
774 | has been treated in accordance with Section II, A.2.d(5)(c) prior to discharge;

Deleted: , D.5.d

775
776 | d. Water used to control dust that has been filtered, settled or otherwise treated prior to
777 | discharge;

778
779 | e. Potable water sources, including uncontaminated waterline flushings;

780
781 | f. Routine external building wash down which does not use detergents, solvents or other
782 | wash chemicals and that have been filtered, settled or otherwise treated prior to
783 | discharge;

784
785 | g. Pavement washwaters where spills or leaks of toxic or hazardous materials have not
786 | occurred (unless all spilled material has been removed) and where detergents, solvents or
787 | other wash chemicals are not used and that have been filtered, settled or otherwise treated
788 | prior to discharge;

789
790 | h. Uncontaminated air conditioning or compressor condensate;

791
792 | i. Uncontaminated ground water or spring water;

805
806 j. Foundation or footing drains where flows are not contaminated with process materials
807 such as solvents;
808
809 k. Uncontaminated excavation dewatering, including dewatering of trenches and
810 excavations that have been filtered or settled or otherwise treated prior to discharge; and,
811
812 l. Landscape irrigation.

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813 ~~E. Releases of hazardous substances or oil in excess of reportable quantities. The~~
814 ~~discharge of hazardous substances or oil in the stormwater discharges from the~~
815 ~~construction site shall be prevented or minimized in accordance with the stormwater~~
816 ~~pollution prevention plan for the site. This permit does not relieve the permittee of the~~
817 ~~reporting requirements of 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) and 40 CFR~~
818 ~~Part 302 (2002) or § 62.1 44.34.19 of the Code of Virginia.~~

819 ~~Where a release containing a hazardous substance or oil in an amount equal to or in~~
820 ~~excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR~~
821 ~~Part 117 (2002), 40 CFR Part 302 (2002), or § 62.1 44.34.19 of the Code of Virginia~~
822 ~~occurs during a 24 hour period:~~

823 ~~1. The operator is required to notify the Department of Environmental Quality and the~~
824 ~~permit issuing authority in accordance with the requirements of Section III G as soon as~~
825 ~~he has knowledge of the discharge;~~
826 ~~2. Where a release enters a municipal separate storm sewer system (MS4), the operator~~
827 ~~shall also notify the operator of the MS4; and~~
828 ~~3. The stormwater pollution prevention plan required under Section II D of this permit~~
829 ~~must be reviewed by the operator to identify measures to prevent the reoccurrence of~~
830 ~~such releases and to respond to such releases, and the plan must be modified where~~
831 ~~appropriate within seven calendar days of knowledge of a release.~~

832
833 ~~F. Spills. This permit does not authorize the discharge of hazardous substances or oil~~
834 ~~resulting from an on-site spill.~~

835
836 ~~E. Termination of permit coverage. Coverage under this permit may be terminated in~~
837 ~~accordance with 4VAC50-60-1160.~~

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838
839 ~~G. Water quality protection.~~

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840
841 1. The operator must select, install, implement and maintain the control measures as
842 identified in the SWPPP at the construction site that minimize pollutants in the discharge
843 to ensure that the operator's discharge does not cause or contribute to an excursion above
844 any applicable water quality standards.
845
846 2. If it is determined by the permit issuing authority in consultation with the State Water
847 Control Board ~~that at any time~~ that the operator's stormwater discharges are causing, have

851 | a reasonable potential to cause, or are contributing to an excursion above any applicable
852 | water quality standard, the ~~permit-issuing authority department~~, in consultation with the
853 | VSMP authority, may take appropriate enforcement action and require the operator to:

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855 | a. Modify control measures in accordance with Section II B to adequately address the
856 | identified water quality concerns;

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858 | b. Submit valid and verifiable data and information that are representative of ambient
859 | conditions and indicate that the receiving water is attaining water quality standards; or

861 | c. Cease discharges of pollutants from construction activity and submit an individual
862 | permit application according to 4VAC50-60-410 B.3.

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864 | All written responses required under this part must include a signed certification
865 | consistent with Section III K.

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867 | SECTION II
868 | STORMWATER POLLUTION PREVENTION PLAN

870 | A. Stormwater Pollution Prevention Plan ~~Framework~~

872 | 1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to
873 | submission of a registration statement and implemented for the construction activity
874 | covered by this permit. SWPPPs shall be prepared in accordance with good engineering
875 | practices.

877 | 2. The SWPPP shall include:

879 | a. General Information

881 | (1) A copy of the Registration for Coverage under the VSMP General Permit for
882 | Discharges of Stormwater from Construction Activities signed in accordance with
883 | 4VAC50-60-370;

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885 | (2) Upon receipt of coverage, a copy of the Notice of Coverage under the VSMP General
886 | Permit for Discharges of Stormwater from Construction Activities;

888 | (3) A narrative description of the nature of the construction activity, including the
889 | function of the project (e.g., low density residential, shopping mall, highway, etc.);

891 | (4) A legible site plan identifying:

893 | (a) Directions of stormwater flow and approximate slopes anticipated after major grading
894 | activities;

895

903 (b) Limits of land disturbance including steep slopes and natural buffers around surface
904 waters that will not be disturbed;

905
906 (c) Locations of major structural and nonstructural control measures including sediment
907 basins and traps, perimeter dikes, sediment barriers and other measures intended to ~~trap~~
908 filter or otherwise treat sediment that will be installed between disturbed areas and the
909 undisturbed vegetated areas, in order to increase sediment removal and maximize
910 stormwater infiltration;

911
912 (d) Locations of surface waters;

913
914 (e) Locations where concentrated stormwater is discharged;

915
916 (f) The location of the on-site rain gauge, or a description of the off-site representative
917 rain gage established in consultation with the VSMP authority, used to identify a runoff
918 producing event for inspection purposes; and,

Deleted: , when applicable

919
920 (g) When required by the VSMP authority, locations of on-site and off-site, when
921 applicable, support activities, including:

922
923 (i) Areas where equipment and vehicle washing, wheel wash water, and other wash
924 waters is to occur;

925
926 (ii) Storage areas for chemicals such as acids, fuels, fertilizers and other lawn care
927 chemicals;

928
929 (iii) Concrete wash-out areas;

930
931 (iv) Vehicle fueling and maintenance areas;

932
933 (v) Sanitary waste facilities, including those temporarily placed on the construction site;
934 and,

935
936 (vi) Construction waste storage.

937
938 Previously covered construction activities, as identified in Section I, A.2, shall review and
939 update their SWPPP no later than 30-days following permit coverage to include the
940 required information listed in Section II, A.2.a.

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941
942 b. Erosion and Sediment Control Plan

943
944 (1) An erosion and sediment control plan or an agreement in lieu of a plan, as defined in
945 4VAC50-30-10, approved by a Board-approved Virginia Erosion and Sediment Control
946 Program authority (VESCP authority) or, where appropriate, in an erosion and sediment
947 control plan designed in accordance with annual standards and specifications approved
948 by the department. The operator of any land disturbing activity that is not required to

955 obtain erosion and sediment control plan approval from a VESCP authority or adopt
956 | Board-approved annual standards and specifications shall submit the erosion and
957 sediment control plan to the department for review and approval prior to land
958 disturbance.

959
960 (2) For off-site support activities such as borrow or fill areas, all required erosion and
961 | sediment control plans approved by a VESCP authority or, where appropriate, an erosion
962 and sediment control plan designed in accordance with annual standards and
963 specifications approved by the department. The operator of any land disturbing activity
964 that is not required to obtain erosion and sediment control plan approval from a VESCP
965 | authority or adopt Board-approved annual standard and specifications shall submit the
966 erosion and sediment control plan to the department for review and approval prior to land
967 disturbance.

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968
969 (3) All erosion and sediment control plans shall include a statement describing the
970 | maintenance responsibilities required for the erosion and sediment controls utilized.

971
972 (4) Unless there is evidence to the contrary as the result of an inspection, an approved
973 erosion and sediment control plan, an agreement in lieu of plan approved by a VESCP
974 authority without exception or an erosion and sediment control plan designed in
975 accordance with annual standards and specifications approved by the department
976 adequately:

977
978 (a) Controls the volume and velocity within the site to minimize soil erosion;

979
980 (b) Controls stormwater discharges, including both peak flow rates and total
981 | stormwater volume, to minimize erosion at outlets and to minimize downstream channel
982 and stream bank erosion;

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983
984 (c) Minimizes the disturbance of steep slopes;

985
986 (d) Minimizes the amount of soil exposed during construction activity;

987
988 (e) Minimizes sediment discharges from the site in a manner that addresses the
989 amount, frequency, intensity and duration of precipitation, the nature of resulting
990 stormwater runoff and soil characteristics, including the range of soil particle sizes
991 expected to be present on the site;

992
993 (f) Provides and maintains natural buffers around surface waters, directs stormwater
994 to vegetated areas to increase sediment removal and maximize stormwater infiltration,
995 unless infeasible

996
997 (g) Minimizes soil compaction and preserves topsoil where feasible;

998
999 (h) Ensures that stabilization will begin immediately upon installation of earthen
1000 structures such as dams, dikes and diversions and that stabilization of denuded areas shall

1003 be initiated immediately upon reaching final grade or for areas that may not be at final
1004 grade but will remain dormant for longer than 14 days. Temporary stabilization shall be
1005 installed within seven days of initiation; and,

1006
1007 (i) Discharges stormwater from the surface of basins and other impoundments when
1008 the impoundment is designed to include a wet storage stage and discharges from the dry
1009 storage stage.

1010
1011 Previously covered construction activities, as identified in Section I.A.2, shall implement
1012 the inspection requirements in Section II.F and update their erosion and sediment control
1013 plan no later than 30-days following permit coverage to include the required
1014 modifications resulting from the inspection requirements.

1015
1016 c. Stormwater Management Plan

1017
1018 A stormwater management plan approved by a Board-approved Virginia Stormwater
1019 Management Program authority (VSMP authority) or, where appropriate, a stormwater
1020 management plan developed in accordance with annual standards and specifications
1021 approved by the department. The operator of any land disturbing activity that is not
1022 required to obtain stormwater management plan approval from a VSMP authority or
1023 adopts Board-approved annual standard and specifications shall submit the stormwater
1024 management plan to the department for review and approval prior to land disturbance.

1025
1026 Previously covered construction activities, as identified in Section I.A.2, shall review and
1027 update their SWPPP no later than 30-days following permit coverage to demonstrate
1028 compliance with the Virginia Stormwater Management Program regulations, Part II.C
1029 (4VAC50-60).

1030
1031 d. Pollution Prevention Plan

1032 A pollution prevent plan that addresses expected pollutant-generating activities from both
1033 on-site and off-site support activities covered under the general permit that may
1034 reasonably be expected to affect the quality of stormwater discharges.

1035
1036 In order to comply with 4 VAC50-60-56, the pollution prevention plan shall:

1037
1038 (1) Identify the potential pollutant-generating activities and the pollutant that is
1039 expected to be exposed to stormwater for all on-site and off-site activities, including
1040 support activities;

1041
1042 (2) Describe the location where the pollutant-generating activities will occur or, if
1043 identified on the site plan, reference the site plan;

1044
1045 (3) Identify all non-stormwater discharges, as authorized in Section I.E of this permit,
1046 that are or will be commingled with stormwater discharges from the construction activity
1047 at the site.

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- 1074 (4) Identify the person responsible for the pollutant prevention activities for each
1075 pollutant-generating activity (if other than the person listed as the qualified personnel).
1076
- 1077 (5) Describe procedures and practices that will be implemented to:
1078
- 1079 (a) Prevent and respond to leaks, spills and other releases including:
1080
- 1081 i. Procedures for expeditiously stopping, containing and cleaning up spills, leaks
1082 and other releases; and,
1083 ii. Procedures for reporting leaks, spills and other releases in accordance with
1084 Section III.G;
1085
- 1086 (b) Eliminate the discharge of spilled and leaked fuels and chemicals from vehicle
1087 fueling and maintenance activities (e.g., providing secondary containment ~~such as~~ spill
1088 berms, decks, spill containment pallets, providing cover where appropriate, and having
1089 spill kits readily available);
1090
- 1091 (c) Prevent the discharge of soaps, detergents, solvents and wash water from
1092 construction materials, such as clean up of stucco, paint form release oils, and curing
1093 compounds, by providing:
1094
- 1095 i. Cover (e.g. plastic sheeting or temporary roofs) to prevent contact with
1096 stormwater;
1097 ii. Collection and proper disposal in a manner to prevent contact with stormwater;
1098 or,
1099 iii. A similarly effective means designed to prevent discharge of these pollutants.
1100
- 1101 (d) Minimize the discharge of pollutants from equipment and vehicle washing, wheel
1102 wash water and other types of washing (e.g., locating activities away from surface waters
1103 and stormwater inlets or conveyances and directing wash waters to sediment basins or
1104 traps, using filtration devices such as filter bags or sand filters or using similarly effective
1105 controls);
1106
- 1107 (e) Direct concrete wash water into a leak-proof container or leak-proof ~~settling basin~~
1108 that is designed so that no overflows can occur due to inadequate sizing or precipitation
1109 and that hardened concrete wastes are removed and disposed of in a manner consistent
1110 with handling of other construction wastes;
1111
- 1112 (f) Minimize the discharge of pollutants from storage, handling and disposal of
1113 construction projects, materials and wastes including:
1114
- 1115 i. Building products such as asphalt sealants, copper flashing, roofing materials,
1116 adhesives, concrete admixtures;
1117 ii. Pesticides, herbicides, insecticides, fertilizers and landscape materials;
1118 _____
1119 _____

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Deleted: (examples:

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Deleted: Fuels, oils and other petroleum projects;

Deleted: Hazardous or toxic wastes;

1128 iii. Construction and domestic wastes such as packaging materials, scrap construction
1129 materials, masonry products, timber, pipe and electrical cuttings, plastics,
1130 styrofoam, concrete and other trash or building materials; and,

Deleted: Sanitary wastes.

1131
1132
1133 (g) Prevent the discharge of fuels, oils and other petroleum projects, hazardous or toxic
1134 wastes, and sanitary wastes.

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1135
1136 (h) Address any other discharges from a pollutant generating activity not addressed
1137 above.

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1138
1139 (6) The pollution prevention plan shall include procedures for providing ~~project-~~
1140 ~~specific training and~~ pollution prevention awareness to personnel involved in pollutant
1141 ~~generating activities. Training shall include including~~ awareness of all applicable wastes,
1142 including any wash water, disposal practices and relevant site locations for disposal of
1143 such wastes. Documentation of this training or pollution prevention awareness shall be
1144 kept with the pollution prevention plan.

1145
1146
1147 (7) Previously covered construction activities, as identified in Section I.A.2., shall review
1148 and update their pollution prevention plan no later than 30-days following permit
1149 coverage to ensure compliance with these permit conditions.

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1150
1151 e. Applicable state or local programs.

1152
1153 Certain requirements of this general permit may be fulfilled by incorporating by reference
1154 other plans such as a spill prevention control and countermeasure (SPCC) plan developed
1155 for the site under § 311 of the federal Clean Water Act or best management practices
1156 (BMP) programs otherwise required for the facility provided that the incorporated plan
1157 meets or exceeds the SWPPP requirements of Section II.A.2.a. All plans incorporated by
1158 reference into the SWPPP become enforceable under this permit. If a plan incorporated
1159 by reference does not contain all of the required elements of the SWPPP, the operator
1160 must develop the missing elements and include them in the SWPPP.

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1161
1162 f. SWPPP requirements for discharges to impaired waters, including those with approved
1163 TMDLs.

1164
1165 The SWPPP shall:

1166 (1) Identify impaired surface water(s) and the associated impairment(s) where the
1167 construction activity discharges. When applicable, the SWPPP shall also identify the
1168 TMDL(s) name and pollutant; and

1169
1170 (2) Provides clear direction that:

1171 (a) Permanent or temporary soil stabilization shall be applied to denuded areas within
1172 seven days after final grade is reached on any portion of the site;

1181 (b) Nutrients shall be applied in accordance with manufacturer's recommendations and
1182 shall not be applied during wet weather events; and,
1183 (c) A modified inspection schedule shall be implemented, if applicable.

1184
1185 g. Qualified Personnel

1186 The name, phone number and qualifications of the qualified personnel responsible for
1187 conducting inspections required by this permit.

1188
1189 h. Delegation of Authority

1190 The individuals or positions with delegated authority, in accordance with Section III K, to
1191 sign inspection reports or modify the SWPPP.

1192
1193 i. SWPPP Signature

1194 The SWPPP shall be signed and dated in accordance with Section III K.

1195
1196 B. SWPPP MODIFICATION, UPDATES AND RECORDS

1197 1. The operator shall amend the SWPPP whenever there is a change in design,
1198 construction, operation, or maintenance that has a significant effect on the discharge of
1199 pollutants to surface waters and that has not been previously addressed in the SWPPP.

1200 2. The SWPPP must be amended if during inspections or investigations by the operator's
1201 qualified personnel, or by local, state or federal officials, it is determined that the existing
1202 control measures are ineffective in minimizing pollutants in stormwater discharges from
1203 the construction site. Revisions to the SWPPP shall include additional or modified
1204 control measures designed to correct problems identified. If approval by a VESCP
1205 authority, VSMP authority, or the department is necessary for the control measure,
1206 revisions to the SWPPP shall be completed no later than seven calendar days following
1207 approval. Implementation of these additional or modified control measures must be
1208 accomplished as described in Section II D.3 b.

1209 3. Revisions to the SWPPP shall be signed and dated in accordance with Section III K 2,
1210 but are not required to be certified in accordance with Section III K 4.

1211 4. The SWPPP must clearly identify the contractor(s) or subcontractor(s) that will
1212 implement and maintain each control measure identified in the SWPPP. The SWPPP
1213 shall be revised to identify any new contractor that will implement and maintain a control
1214 measure.

1215 The operator shall update the SWPPP no later than seven days following any
1216 modification to its implementation. All modifications or changes to the SWPPP shall be
1217 noted. Updates and modifications shall be signed and dated in accordance with Section
1218 III K and shall include:

1219
1220 1. A record of the dates when:

1221 a. When major grading activities occur;

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1244 b. When construction activities temporarily or permanently cease on a portion of the site;
1245 and,
1246 c. When stabilization measures are initiated;
1247
1248 3. Documentation of replaced or modified controls where periodic inspections or other
1249 information have indicated [that](#) the controls have been used inappropriately or incorrectly
1250 and where modified as soon as possible;
1251
1252 4. Areas that have reached final stabilization and where no further SWPPP or inspection
1253 requirements apply;
1254
1255 5. All properties that are no longer under the legal control of the operator and the dates
1256 on which the operator no longer had legal control over each property.
1257
1258 6. The date of any prohibited discharges, the [discharge volume](#), released, and what
1259 actions were taken to minimize the impact of the release;
1260
1261 7. Measures [taken](#) to prevent the reoccurrence of any prohibited discharge;
1262
1263 8. Measures taken to address any evidence to the contrary identified as a result of an
1264 inspection; and,
1265
1266 9. Updates necessary to reflect any revisions to applicable federal, state or local
1267 requirements that affect the control measures implemented at the site.
1268
1269 C. PUBLIC NOTIFICATION
1270 Prior to land disturbance, the operator shall post conspicuously near the main entrance of
1271 the construction activity;
1272
1273 1. A copy of the [Notice of Coverage](#) letter; and,
1274
1275 2. Either the name and telephone number of a contact person to schedule a time for
1276 public SWPPP review or the Internet address at which a copy of the SWPPP may be
1277 found in accordance with Section II.D.3.
1278
1279 3. For linear projects, the operator shall post the information at a publicly accessible
1280 location near an active part of the construction project (e.g., where a pipeline project
1281 crosses a public road).
1282
1283 4. The operator shall maintain the posted information until termination of permit
1284 coverage.
1285
1286 D. SWPPP AVAILABILITY
1287 1. Operators with day-to-day operational control over SWPPP implementation shall have
1288 a copy of the SWPPP available at a central location on-site for the use by those identified
1289 as having responsibilities under the SWPPP whenever they are on the construction site.

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1296 2. The operator shall make SWPPPs and all updates available upon request to the
1297 department, VSMP authority, EPA, VESCP authority, local government officials, or the
1298 operator of a municipal separate storm sewer system receiving discharges from the
1299 construction activity. If an on-site location is unavailable to store the SWPPP when no
1300 personnel are present, notice of the SWPPP's location must be posted near the main
1301 entrance of the construction site.

1302

1303 3. The operator shall make the SWPPP available to the public for review. A copy of the
1304 SWPPP for each site shall be made available on the Internet or in hard copy. If not
1305 provided electronically, access to the SWPPP may be arranged upon request at a time and
1306 at a publicly accessible location convenient to the operator or his designee but shall be no
1307 less than once per month and shall be during normal business hours. Information
1308 excluded from disclosure under applicable law shall not be required to be released.
1309 Information not required to be contained within the SWPPP by this permit is not required
1310 to be released.

1311

1312 E. SWPPP IMPLEMENTATION

1313

1314 The operator shall implement the SWPPP and subsequent updates from commencement
1315 of construction activity until permit termination.

1316 All control measures must be properly maintained in effective operating condition in
1317 accordance with good engineering practices and, where applicable, manufacturer
1318 specifications. If site inspections required by Section II.F identify control measures that
1319 are not operating effectively, maintenance shall be performed as soon as practicable, but
1320 no later than 7 days after discovery, to maintain the continued effectiveness of
1321 stormwater controls.

1322 If site inspections required by Section II.F identify existing control measures that need to
1323 be modified or if additional control measures are necessary for any reason,
1324 implementation shall be completed prior to the next anticipated storm event. If
1325 implementation prior to the next anticipated storm event is impracticable, the situation
1326 shall be documented in the SWPPP and alternative control measures shall be
1327 implemented as soon as practicable, but no later than 7 days after discovery.

1328 The operator may be required to remove accumulated sediment deposits located outside
1329 of the construction activity covered by this permit as soon as practicable in order to
1330 minimize environmental impacts. The operator should notify the Department of
1331 Environmental Quality prior to removal of sediments accumulated in surface waters.

1332

1333 F. INSPECTIONS

1334 1. Personnel responsible for on-site and off-site inspections

1335 Inspections required by this permit shall be conducted by the qualified personnel
1336 identified by the operator in the SWPPP. The operator is responsible for insuring that the
1337 qualified personnel conduct the inspection.

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Section II B

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Deleted: If sediment escapes the construction site,
off-site accumulations of sediment must be removed
as soon as practicable to minimize off-site impacts.

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1357
1358 2. Inspection schedule
1359 a. Inspections shall be conducted during normal working hours and shall occur at a
1360 frequency of:
1361
1362 | (1) At least ~~once~~ every 7 calendar days; or,
1363
1364 (2) At least once every 14 calendar days and within 48 hours following any runoff
1365 producing storm event. In the event that a runoff producing event occurs when there
1366 are more than 48 hours between normal working hours, the inspection shall be
1367 conducted ~~no later than~~ the next business day.
1368
1369 b. Where areas have been temporarily stabilized or runoff is unlikely due to winter
1370 conditions (e.g., the site is covered with snow or ice, or frozen ground exists), the
1371 inspection frequency may be reduced to once every 30 calendar days.
1372
1373 c. Representative inspections may be utilized for utility line installation, pipeline
1374 construction, or other similar linear construction activities provided ~~that~~:
1375
1376 (1) Temporary or permanent stabilization has been installed and vehicle access may
1377 compromise temporary or permanent stabilization and potentially cause additional
1378 disturbance of soils increasing the potential for erosion;
1379 (2) Inspections occur on the same frequencies as other construction projects. Controls
1380 are inspected along the construction site for 0.25 miles above and below each access
1381 point where a roadway, undisturbed right-of-way, or other similar feature intersects
1382 the construction site and allows access to the areas without compromising temporary
1383 or permanent stabilization.
1384 | (3) Inspection locations shall be listed in the report required by Section II.F.4.
1385
1386 3. Inspection Requirements
1387 a. As part of the inspection, the qualified personnel shall:
1388
1389 | (1) Record date ~~and time~~ of the inspection and the amount of rainfall since the last
1390 inspection;
1391
1392 (2) Record the information and a description of any discharges occurring at the time of
1393 inspection;
1394
1395 (3) Record any land disturbing activities that have occurred outside of the approved
1396 erosion and sediment control plan;
1397
1398 (4) Inspect the following for installation in accordance with the approved erosion and
1399 sediment control plan, identification of maintenance needs and effectiveness in
1400 minimizing sediment discharge, including whether the control has been inappropriately
1401 or incorrectly used:
1402

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1406 (a) All perimeter erosion and sediment controls, such as silt fence;
1407 (b) Soil stockpiles and borrow areas for stabilization or sediment trapping measures;
1408 (c) Completed earthen structures, such as dams, dikes and diversions for stabilization;
1409 (d) Cut and fill slopes;
1410 (e) Sediment basins and traps, sediment barriers and other measures installed to control
1411 sediment discharge from concentrated stormwater;
1412 (f) Temporary or permanent channel, flume or other slope drain structures installed to
1413 contain concentrated runoff flowing down cut and fill slopes;
1414 (g) Storm inlets that have been made operational to ensure that sediment laden
1415 stormwater does not enter without first being filtered or otherwise treated; and,
1416 (h) Construction vehicle access routes that intersect or access paved roads for minimizing
1417 sediment tracking.
1418
1419 (5) Inspect areas that have reached final grade or that will remain dormant for more than
1420 14 days for initiation of stabilization activities;
1421
1422 (6) Inspect areas that have reached final grade or that will remain dormant for more than
1423 14 days for completion of stabilization activities within seven days of reaching grade or
1424 stopping work;
1425
1426 (7) Inspect for evidence of the contrary that the erosion and sediment control plan is
1427 meeting the requirements of Section II, A, 2.b.4. Evidence to the contrary includes but is
1428 not limited to:
1429 (a) Concentrated flows of stormwater such as rills, rivulets or channels that cause erosion
1430 when such flows are not filtered, settled or otherwise treated prior to discharge;
1431 (b) Sediment laden or turbid flows of stormwater that are not filtered or settled to remove
1432 sediments prior to discharge;
1433 (c) Deposits of sediment in areas that drain to unprotected stormwater inlets or to catch
1434 basins that discharge to surface waters. Inlets and catch basins with failing sediment
1435 controls due to improper installation, lack of maintenance, or inadequate design are
1436 considered unprotected;
1437 (d) Deposits of sediment from the construction activity on any property (including public
1438 and private streets) outside of the construction activity covered by this permit;
1439 (e) Portions of the site where required stabilization has not been initiated or completed;
1440 (f) Sediment basins without a dewatering device allowing for discharge from the dry
1441 storage portion of the basin;
1442 (g) Sediment traps without adequate wet and dry storage and without restricted discharge
1443 from the dry storage portion of the trap; and,
1444 (h) Land disturbance outside of the delineated area to be disturbed.
1445
1446 (8) Inspect pollutant generating activities identified in the pollution prevention plan for
1447 the proper implementation, maintenance and effectiveness of the procedures and
1448 practices;
1449
1450 (9) Identify any pollutant generating activities not identified in the pollution prevention
1451 plan;

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1457
 1458 (10) Identify and document the presence of any evidence of the discharge of pollutants
 1459 prohibited by this permit.
 1460
 1461 4. Inspection Reports
 1462 Each inspection shall document in a report:
 1463 a. The date and time of the inspection;
 1464 b. Summarized findings of the inspection;
 1465 c. The location(s) of prohibited discharges;
 1466 d. The location(s) of control measures that require maintenance;
 1467 e. The location(s) of control measures that failed to operate as designed or proved
 1468 inadequate for a particular location;
 1469 f. The locations where evidence to the contrary exists;
 1470 f. The location(s) where additional control measures are needed that did not exist at the
 1471 time of inspection;
 1472 g. A list of corrective actions required including any changes to the SWPPP that are
 1473 necessary to implement as a result of the inspection and maintain permit compliance;
 1474 h. Documentation of any corrective actions from a previous inspection that have yet to be
 1475 implemented; and,
 1476 i. The date and signature of the qualified personnel and operator or the authorized
 1477 representative.
 1478 A record of each inspection and any actions taken in accordance with Section II must be
 1479 retained by the operator as part of the SWPPP for at least three years from the date that
 1480 permit coverage expires or is terminated. The inspection reports shall identify any
 1481 incidents of noncompliance. Where a report does not identify any incidents of
 1482 noncompliance, the report shall contain a certification that the facility is in compliance
 1483 with the SWPPP and this permit. The report shall be signed in accordance with Section
 1484 III K of this permit.
 1485 F. Corrective Actions
 1486
 1487 The operator shall implement the corrective action(s) identified as a result of an
 1488 inspection as soon as practicable but no later than prior to the next anticipated storm
 1489 event. If approval by a regulatory authority (e.g. VSMP authority, VESCP authority) of
 1490 a corrective action is necessary, additional control measures shall be implemented to
 1491 minimize pollutants in stormwater discharges until such approvals can be obtained.
 1492
 1493
 1494
 1495 **SECTION III**
 1496 **CONDITIONS APPLICABLE TO ALL VSMP PERMITS**
 1497
 1498 **NOTE:** Discharge monitoring is not required for this permit. If the operator chooses to
 1499 monitor stormwater discharges or control measures, the operator must comply with the
 1500 requirements of subsections A, B, and C, as appropriate.
 1501

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Deleted: G. Termination of permit coverage. ¶
 Coverage under this permit may be terminated in
 accordance with 4VAC50-60-1160.

1518 A. Monitoring.

1519
1520 1. Samples and measurements taken for the purpose of monitoring shall be representative
1521 of the monitoring activity.

1522
1523 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part
1524 136 (2001) or alternative methods approved by the U.S. Environmental Protection
1525 Agency, unless other procedures have been specified in this permit.

1526
1527 3. The operator shall periodically calibrate and perform maintenance procedures on all
1528 monitoring and analytical instrumentation at intervals that will ensure accuracy of
1529 measurements.

1530
1531 B. Records.

1532
1533 1. Monitoring records and reports shall include:

1534
1535 a. The date, exact place, and time of sampling or measurements;

1536
1537 b. The individual(s) who performed the sampling or measurements;

1538
1539 c. The date(s) and time(s) analyses were performed;

1540
1541 d. The individual(s) who performed the analyses;

1542
1543 e. The analytical techniques or methods used; and

1544
1545 f. The results of such analyses.

1546
1547 2. The operator shall retain records of all monitoring information, including all
1548 calibration and maintenance records and all original strip chart recordings for continuous
1549 monitoring instrumentation, copies of all reports required by this permit, and records of
1550 all data used to complete the registration statement for this permit, for a period of at least
1551 three years from the date of the sample, measurement, report or request for coverage.
1552 This period of retention shall be extended automatically during the course of any
1553 unresolved litigation regarding the regulated activity or regarding control standards
1554 applicable to the operator, or as requested by the board.

1555
1556 C. Reporting monitoring results.

1557
1558 1. The operator shall update the SWPPP to include the results of the monitoring as may
1559 be performed in accordance with this permit, unless another reporting schedule is
1560 specified elsewhere in this permit.

2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms provided, approved or specified by the department; or in any format provided that the date, location, parameter, method, and result of the monitoring activity are included.

3. If the operator monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The operator shall furnish, within a reasonable time, any information which the board, department, or other ~~permit-issuing authority~~ VSMP authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board, department, or other ~~permit-issuing authority~~ VSMP authority may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the CWA and the Virginia Stormwater Management Act. The operator shall also furnish to the board, department, or other ~~permit-issuing authority~~ VSMP authority, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized stormwater discharges. Pursuant to § 10.1-603.2:2 A of the Code of Virginia, except in compliance with a permit issued by the ~~permit-issuing authority~~ Board, it shall be unlawful to cause a stormwater discharge from a construction activity.

G. Reports of unauthorized discharges. Any operator who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002), or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon state waters or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters, shall notify the Department of Environmental Quality of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department, the Department of Environmental Quality, and the permit-issuing authority within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be;
and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present
discharge or any future discharges not authorized by this permit.

Discharges reportable to the department, the Department of Environmental Quality, and
the permit-issuing authority under the immediate reporting requirements of other
regulations are exempted from this requirement.

Where a release enters a municipal separate storm sewer system (MS4), the operator shall
also notify the operator of the MS4

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary
discharge including a "bypass" or "upset", as defined herein, should occur from a facility
and the discharge enters or could be expected to enter state waters, the operator shall
promptly notify, in no case later than within 24 hours, the department, the Department of
Environmental Quality, and the permit-issuing authority by telephone after the discovery
of the discharge. This notification shall provide all available details of the incident,
including any adverse effects on aquatic life and the known number of fish killed. The
operator shall reduce the report to writing and shall submit it to the department, the
Department of Environmental Quality, and the permit-issuing authority within five days
of discovery of the discharge in accordance with Section III I 2. Unusual and
extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing
operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service of some or all of the facilities; and

4. Flooding or other acts of nature.

I. Reports of noncompliance. The operator shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report to the department, the Department of Environmental Quality, and the permit-issuing authority shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

a. Any unanticipated bypass; and

b. Any upset that causes a discharge to state waters.

2. A written report shall be submitted within five days and shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The permit-issuing authority may waive the written report on a case-by-case basis for reports of noncompliance under Section III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The operator shall report all instances of noncompliance not reported under Section III I 1 or 2 in writing as part of the SWPPP. The reports shall contain the information listed in Section III I 2.

NOTE: The reports required in Section III G, H and I shall be made to the department's Stormwater Program Section of the Division of Soil and Water Conservation, appropriate Department of Environmental Quality's Regional Office Pollution Response Program, and the permit-issuing authority. Reports may be made by telephone or by fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report, including a registration statement, to the department or the permit-issuing authority, the operator shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator shall give notice to the permit-issuing authority as soon as possible of any planned physical alterations or additions to the permitted facility or activity. Notice is required only when:

a. The operator plans an alteration or addition to any building, structure, facility, or installation that may meet one of the criteria for determining whether a facility is a new source in 4VAC50-60-420;

b. The operator plans an alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this permit; or

2. The operator shall give advance notice to the permit-issuing authority of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this part, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, including SWPPPs, and other information requested by the board, the department, or the ~~permit-issuing authority~~ VSMP authority,

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shall be signed by a person described in Section III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Section III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. The signed and dated written authorization is included in the SWPPP. A copy must be provided to the ~~permit issuing authority~~ VSMP authority, if requested.

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3. Changes to authorization. If an authorization under Section III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the construction activity, a new authorization satisfying the requirements of Section III K 2 shall be submitted to the ~~permit issuing authority~~ VSMP authority prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Section III K 1 or 2 shall make the following certification:

"I certify under penalty of law that I have read and understand this document and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The operator shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The operator shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the operator wishes to continue an activity regulated by this permit after the expiration date of this permit, the operator shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Section III U) and "upset" (Section III V), nothing in this permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

Q. Proper operation and maintenance. The operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the operator to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by the operator only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters and in compliance with all applicable state and federal laws and regulations.

S. Duty to mitigate. The operator shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass", as defined in 4VAC50-60-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Section III U 2 and 3 herein.

2. Notice.

a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the operator shall submit prior notice to the department, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in Section III I herein.

3. Prohibition of bypass.

a. Except as provided in Section III U 1, bypass is prohibited, and the permit-issuing authority may take enforcement action against an operator for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The operator submitted notices as required under Section III U 2.

b. The permit-issuing authority may approve an anticipated bypass, after considering its adverse effects, if the permit-issuing authority determines that it will meet the three conditions listed in Section III U 3 a.

V. Upset.

1. An upset, as defined in 4VAC50-60-10, means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Section III V 2 herein are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

3. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

4. An operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

a. An upset occurred and that the operator can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The operator submitted notice of the upset as required in Section III I herein; and

d. The operator complied with any remedial measures required under Section III S herein.

5. In any enforcement proceeding, the operator seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The operator shall allow the department as the board's designee, the ~~permit issuing authority~~ VSMP authority, EPA, or an authorized representative of either entity (including an authorized contractor), upon presentation of credentials and other documents as may be required by law to:

1. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Clean Water Act or the Virginia Stormwater Management Act, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the operator for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the ~~permit issuing authority~~ VSMP authority. Except as provided in Section III Y 2, a permit may be transferred by the operator to a new operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.

2. As an alternative to transfers under Section III Y 1, this permit may be automatically transferred to a new operator if:

a. The current operator notifies the ~~permit issuing authority~~ VSMP authority at least 30 days in advance of the proposed transfer of the title to the facility or property;

b. The notice includes a written agreement between the existing and new operators containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. The ~~permit issuing authority~~ VSMP authority does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Section III Y 2 b.

3. For ongoing construction activity involving a change of operator, the new operator shall accept and maintain the existing SWPPP, or prepare and implement a new SWPPP prior to taking over operations at the site.

1973 Z. Severability. The provisions of this permit are severable, and if any provision of this
1974 permit or the application of any provision of this permit to any circumstance, is held
1975 invalid, the application of such provision to other circumstances and the remainder of this
1976 permit shall not be affected thereby.
1977